

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

In the Matter of:

East Akron Station
Akron, OH 44305-9998
(Paul J. Connor and Shirley
Strader, Petitioners)

Docket No. A2011-16

**RESPONSE OF UNITED STATES POSTAL SERVICE TO PETITIONER'S
APPLICATION FOR SUSPENSION OF DISCONTINUANCE FOR THE
EAST AKRON STATION, AKRON, OHIO 44305**
(June 16, 2011)

By means of Order No. 733 (May 19, 2011), the Postal Regulatory Commission (Commission) docketed correspondence postmarked May 11, 2011 from two customers of East Akron Station in Akron, OH,¹ assigning PRC Docket No. A2011-16 as an appeal pursuant to 39 U.S.C. § 404(d).² That Order noted that one of the customers, Mr. Connor, had also filed an application for suspension of the Postal Service's determination to close the East Akron Station. On May 17, 2011, the Commission docketed an additional pleading from Mr. Connor (Petitioner) consisting of an application for suspension of the Postal Service's determination to close the Akron-East Station supported by a Memorandum and correspondence (the "Application").³ The East Akron Station

¹ The correspondence included a two-page letter from Paul J. Connor to Shoshana Grove dated May 10, 2011 enclosing a two-page Petition for Review with copy of April 11, 2011 letter from Todd Hawkins, District Manager, USPS (Hawkins letter) attached; a three-page Letter from Paul J. Connor re: Freedom of Information Act Request dated May 10, 2011 with Hawkins letter attached (FOIA Request); two copies of page 23 of Stations and Branches Optimization and Consolidation Initiative; a second copy of the FOIA Request; and a copy of page 22 of Stations and Branches Optimization and Consolidation Initiative. Also docketed was a one-page letter from Shirley Strader to Shoshana Grove dated May 11, 2011.

² East Akron Station appears on the list of stations and branches identified for possible discontinuance in PRC Docket No. N2009-1. See USPS-LR-N2009-1/4 (January 29, 2009).

³ Application for Suspension of Determination, PRC Docket No. A2011-16 (May 17, 2011).

is scheduled to close on June 17, 2011.⁴ As explained below, the Petitioner's application for suspension of the scheduled closing of the East Akron Station should be denied.

As an initial matter, this appeal is not within the scope of the Commission's jurisdiction under 39 USC 404(d). The East Akron Station is not an independent Post Office, so Commission jurisdiction under 39 U.S.C. § 404(d) does not attach. As the Commission is well aware, the Postal Service understands that the Commission lacks subject matter jurisdiction under 39 U.S.C. § 404(d) to review Postal Service decisions regarding the discontinuance of stations and branches. See *gen'ly* Reply Brief of the United States Postal Service, section III (pp. 6-12), PRC Docket No. N2009-1 (December 16, 2009); Comments of United States Postal Service Regarding Jurisdiction Under (Current) Section 404(d), PRC Docket No. A2010-3 (April 19, 2010).⁵ In the Postal Service's view, the Post Office discontinuance regulations in 39 C.F.R. Part 241.3 and Handbook PO-101 do not apply to the East Akron Station because the East Akron Station is not an independent Post Office. Similarly, the Commission's Rules of Practice for Post Office closings found in section 3001.110 *et seq.* do not apply in this instance. Petitioner fails to allege facts that constitute a condition precedent to any jurisdiction of the Commission under 39 U.S.C. § 404(d)(5).

Second, even assuming section 404(d) were interpreted to embrace the discontinuance of stations and branches, this proceeding does not involve a loss

⁴ See Hawkins letter attached to two-page letter from Paul J. Connor to Shoshana Grove dated May 10, 2011.

⁵ In turn, the Postal Service is well aware that the Commission claims a broader jurisdiction.

of retail services to the community for reasons that match those in PRC Docket No. A2010-3. In that proceeding, the Commission concluded that the section 404(d) procedural requirements apply only where postal customers lose access to postal services, and that postal customers do not lose access to postal services where alternate retail facilities are located in “close proximity” to the discontinued station.⁶ Because of the close proximity of other postal facilities and the availability of postal services through <http://www.USPS.com/> and other expanded access options, the discontinuance of East Akron Station will not cause postal customers to lose access to postal services.⁷ Consequently, the Postal Service submits that the section 404(d) procedures do not apply on this separate basis. Therefore, the relief requested by the petitioner is not, as a matter of law, available to Petitioner and should be denied on these grounds alone. The Postal Service will respond to these matters in greater detail in its answer due on July 11, 2011.

Third, in earlier station and branch discontinuance appeals, the Commission has not granted petitioner applications for suspensions of scheduled closings. See PRC Docket No. A2011-1 (application for suspension filed on October 19, 2010; station closed on January 25, 2011; order affirming final determination issued on February 15, 2011); PRC Docket No. 2011-4 (application for suspension filed on November 22, 2010; station closed on

⁶ PRC Order No. 477, Order Dismissing Appeal, Docket No. A2010-3, June 22, 2010, at 7-8.

⁷ Ellet Station is located two miles from East Akron Station, and there are ten other postal retail facilities and two contract postal units located within five miles of East Akron Station. In addition, customers may obtain some postal services from expanded access options, including three Automated Postal Centers® located within five miles of East Akron Station, three stamp consignment sites located within one mile of East Akron Station, and Stamps by Mail®. See Notice of United States Postal Service, Docket No. A2011-16, May 31, 2011, at 2-3 and Exhibits 2 and 3.

January 15, 2011; order affirming final determination issued on March 16, 2011) ; PRC Docket No. A2011-5 (application for suspension filed on December 6, 2010; station closed on January 15, 2011; order affirming final determination issued on March 31, 2011). In these cases, the Commission did not interfere with the Postal Service's completion of scheduled discontinuances even though the Commission had not ruled on petitioners' appeals. See *id.*

Fourth, the Postal Service reviewed the facts pertaining to the East Akron Station; the relief requested by the petitioner is not practicable to implement at this late stage and would significantly frustrate postal operational plans. The Postal Service has already made numerous arrangements to implement the final determination, including the following:

- Made arrangements for duty station changes for the employees currently working at the East Akron Station;
- Scheduled various operational changes, including some related to mail transportation schedules, vehicles, and mail sortation, to coincide with the discontinuance of the East Akron Station;
- Renovated the South Arlington Station in anticipation of the relocation of boxes as a result of the discontinuance of the East Akron Station;
- Entered mail that is scheduled to be delivered to customer homes on June 17, 2011, alerting customers to the scheduled closing of the East Akron station; and

- Arranged commencement of home delivery for former P.O. Box customers.

Thus, Postal Service operational plans for an efficient transition would be frustrated, and costly, confusing adjustments would be necessary, were the discontinuance forestalled.

For the reasons set forth above and in the Postal Service's May 31, 2011 Notice filed in this docket, the Petitioner's application for suspension of the scheduled closing of the East Akron Station should be denied

Respectfully submitted,

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